

***PRE-ELECTION
PROTEST
DECISIONS***

ELECTION OFFICE CASE NOS.

P-201-LU413-CLE to P-250-IBT

VOLUME V

***Michael H. Holland
Election Officer
June 1992***

OFFICE OF THE ELECTION OFFICER
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Michael H. Holland
Election Officer

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January 25, 1991

VIA UPS OVERNIGHT

Oland A. Wallis *Columbus*
21189 N. Darby ~~Gate~~ Road
~~E. Canton, OH 44730~~
Milford Center 43045

W. Pete Bilyeu
President
IBT Local Union 413
555 E. Rich Street
Columbus, OH 43215

Carmen E. Parise
President
IBT Joint Council 41
3150 Chester Avenue
Cleveland, OH 44114

Re: Election Office Case No. P-201-LU413-CLE

Gentlemen:

A pre-election protest was filed pursuant to Article XI of the Rules for the IBT International Union Delegate and Officer Election, revised August 1, 1990 ("Election Rules"). In his protest the complainant, Oland A. Wallis, alleges that Local Union 413 President Pete Bilyeu acted improperly when he denied Wallis the opportunity to send a letter to Local Union members at union expense. The Election Officer's investigation revealed the following.

On June 12, 1990 the Election Office received a pre-election protest from Mr. Wallis concerning a letter to the Local Union 413 membership from Pete Bilyeu, dated March 1, 1990. In his March 1, 1990 letter, Bilyeu apparently responds to charges leveled by Wallis concerning payments made by the Local Union to its counsel for legal services provided to the Local Union in the IBT RICO lawsuit, United States of America v. IBT, et al, 88 Civ. 4486 (DNE) (S.D.N.Y. 1989). By letter dated July 16, 1990, the Election Officer informed Mr. Wallis that the conduct complained of in his protest occurred prior to the effective date of the Election Rules and were therefore technically beyond the jurisdiction of the Election Officer. However, the Election Officer went on to state that he reserved the right to consider the allegations contained in Mr. Wallis' protest in the event that other protest were filed against Local Union 413.

Oland A. Wallis
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In the instant protest, Wallis alleges that Bilyeu acted improperly when he denied Wallis the opportunity to mail to the membership, at union expense, a reply to Bilyeu's March 1, 1990 letter. This allegation does not constitute a violation of the Election Rules. The Election Rules do not require Local Unions to pay for the cost of mailings for candidates. In fact the rules clearly state, at Article VIII, Section 6 (d), that candidates are responsible for the costs of their mailings. Further, while the Election Officer has ordered mailings to remedy Rules violations, the letter to which Mr. Bilyeu seeks to respond was not found to have constituted a violation of the Rules.

Because the instant protest fails to state a claim under the Election Rules it is hereby denied.

If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Officer in any such appeal. Requests for a hearing shall be made in writing, and shall be served on Independent Administrator Frederick B. Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, New Jersey 07102-5311, Facsimile (201) 622-6693. Copies of the request for hearing must be served on the parties listed above, as well as upon the Election Officer, IBT, 25 Louisiana Avenue, N.W., Washington, D. C. 20001, Facsimile (202) 624-8792. A copy of the protest must accompany the request for a hearing.

Very truly yours,



Michael H. Holland
Election Officer

MHH/mca

cc: Frederick B. Lacey, Independent Administrator, IBT
Joyce Goldstein, Regional Coordinator

IN RE:

OLAND WALLIS,

COMPLAINANT,

and

PETE BILYEU, PRESIDENT OF
IBT LOCAL 413,

RESPONDENT.

91 - Elec. App. - 64 (SA)


DECISION OF THE
INDEPENDENT ADMINISTRATOR

This matter arises out of an appeal from a January 25, 1991, decision of the Election Officer in Case No. [REDACTED]. A hearing was held by way of teleconference before me on February 8, 1991, at which the following persons were heard: John Sullivan and Joyce Goldstein, on behalf of the Election Officer; Charles F. Teas, Secretary-Treasurer of IBT Local 413, on behalf of Oland Wallis, the Complainant, and Pete Bilyeu, President of IBT Local 413. Mr. Wallis also audited the hearing.

The facts, issues and Election Officer's determination are accurately set forth in his Summary, a copy of which is attached.¹

¹ Mr. Wallis took exception to the suggestion at p. 4 of the Election Officer's Summary that Local 413 paid its attorney \$5,820 in fees for the filing of the brief in question. It was clarified at the hearing that the \$5,820 bill represented a quarterly statement from the attorney, and the preparation of the brief accounted for only a portion of that bill.

The Election Officer's ruling is affirmed in all respects for the reasons set forth in the Summary.



Frederick B. Lacey
Independent Administrator
By: Stuart Alderoty, Designee

Dated: February 11, 1991.